IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

Crl.Rev.Pet.No. 2488 of 2006(A)

CRA.178/2005 of I ADDL.SESSIONS COURT, KOZHIKODE
CC.530/2001 of JUDL. MAGISTRATE OF FIRST CLASS-IV, KOZHIKODE

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REVN. PETITIONER: APPELLANTS/ACCUSED:

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1. K.M. USAMA, S/O. RIYALU,
   ILLATH HOUSE, KATCHERI AMSOM, DESOM,
   RARICHAN ROAD, KOZHIKODE TALUK.

2. A. SREESH, S/O. SUDHAKARAN,
   VADAKKILLATH HOUSE, KATCHERI AMSOM, DESOM,
   KOZHIKODE.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: COMPLAINANT & STATE:

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1. S.I. OF POLICE,
   NADAKKAVU POLICE STATION.

2. STATE OF KERALA,
   REP. BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
   ERNAKULAM.

BY PUBLIC PROSECUTOR SRI C.M. KAMMAPPU.
SRI.CIBI THOMAS

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 11/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.A. 7031/06 IN CRL.R.P.2488/2006.

DISMISSED.

11-6-2007. SD/- K.R.UDAYABHANU, JUDGE.

//TRUE COPY//

K.R. UDAYABHANU, J.

Crl. R.P. No.2488 of 2006

Dated 11th June, 2007

ORDER

Revision petitioners who are the accused in C.C.No.530/2001 in the file of the JFCM-IV, Kozhikode stand convicted for the offence under sections **326 and** 323 IPC and sentenced to undergo R.I for one year and to pay a fine of Rs.1000/- each for the offence under section 326 IPC and to undergo R.I for three months each for the offence under section 323 IPC. Set off was also allowed.

2. The accused/revision petitioners as well as the de facto complainant have filed a compounding petition signed by them as well as by the respective counsel.

3. The prosecution case is that on 5-4-2001 at about 10.30 p.m while PW-1, de facto complainant was in his car with headlights on and about to enter his house, the accused came in a bike and objected to his putting on the headlights and at the time A1 slapped him , A2 hit him on the face with a granite stone that resulted in fracture to

the nasal bone. It is the case of the revision petitioners that there is no evidence with respect to the stone used. The stone was not produced. Hence it is contended that the offence under section 326 will not lie.

4. I find that in the circumstances and in view of the absence of any details as to the size of the stone etc. it cannot be held that the same if used as a weapon of offence is likely to cause death as contemplated under section 326 IPC.

5. Hence the contention of the counsel for the revision petitioners that only the offence under section 325 IPC is attracted is upheld. In view of the compounding petition filed, the matter will stand compounded. Hence, the case is compounded and the accused are acquitted.

The Crl.R P is allowed.

K.R.UDAYABHANU, JUDGE

kvm/-